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19 October 1948

MEMORANDUM FOR: The Director

SUBJECT: Responsibility and Control for OPC

REFERENCES:
a. NSC 10/2
b. Memorandum of Conversation and Understanding, dated 12 August 1948.
c. Memorandum for the Acting Director of Central Intelligence, dated 11 October 1948, from the Executive Secretary of the National Security Council.

(As used herein, the phrase "covert operations" refers only to the operations of OPC.)

I. ANALYSIS OF NSC 10/2.

A. Paragraph 2 contains the basic decision of the National Security Council in the following words:

> "It therefore seems desirable, for operational reasons, not to create a new agency for covert operations, but in time of peace to place the responsibility for them within the structure of the Central Intelligence Agency and correlate them with espionage and counterespionage operations under the over-all control of the Director of Central Intelligence." (Emphasis added.)

B. In paragraph 3, the National Security Council directs the creation of the Office of Special Projects within CIA to "plan and conduct" covert operations. The Chief of this Office is nominated by State and approved by the NSC but must be acceptable to the DCI, and he shall report directly to the DCI. But OPC shall operate independently of other components of CIA.

C. The Director of Central Intelligence is made specifically responsible for insuring, through representatives of the Secretaries of State and Defense, that covert operations are "planned and conducted" in a manner consistent with U. S. foreign and military policies. He is also responsible for insuring the planning for wartime covert operations in conjunction with the Joint Chiefs of Staff. The funds for support of these operations are to be CIA funds, earmarked for OPC.

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D. As set forth in NSC 10/2 therefore, the intent of the Council is to look to the Director for the proper functioning of covert operations. He is specifically held responsible for their control, which presupposes the right to initiate and to veto projects, subject only to NSC rulings in the event of dispute. As the funds involved are to be CIA funds, unvouchered expenditures will, by law, be the Director's personal responsibility. To carry this out, he must have power to set controls for all such expenditures and provide means, by audit or otherwise, to insure that the funds are properly expended under regulations laid down by him. It therefore appears that the Council intended no limitation of the Director's operational control outside of that which may be exercised by the NSC in case of dispute. But there is a limitation from a policy point of view in that the Director must meet the policy requirements of the Department of State in connection with foreign affairs and of the Joint Chiefs' military planning. But he is to be guided by them, not controlled.

II. ANALYSIS OF THE MEMORANDUM OF CONVERSATION AND UNDERSTANDING ON THE IMPLEMENTATION OF NSC 10/2, DATED 12 AUGUST 1948.

A. In the discussion of NSC 10/2, Mr. Kennan of the State Department asserted the principle that covert operations, as an instrument of foreign policy, must function "to the fullest extent possible" as a direct instrumentality of State and the National Military Establishment. He recognized that, since OPC was placed in CIA, regard must be given to the "organizational requirements of CIA". It follows, according to State, that OPC "must" take its policy direction and guidance from State and the National Military Establishment and that the Chief of OPC must have the fullest and freest access to the proper representatives of those departments.

B. Mr. Souers stated specifically that the NSC had intended in 10/2 to recognize the principle that State and the National Military Establishment are responsible for the "conduct" of the activities of OPC. Mr. Souers expressed the view that this principle is manifest in the document. The analysis made under Section I above indicates to the contrary -- that responsibility for "conduct" of OPC activities was specifically placed in the Director of Central Intelligence.

C. The Director stated that OPC should and could be given all the necessary freedom and flexibility within CIA and that State had responsibility for political decisions, making such decisions in regard to individual projects. Mr.

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Kennan agreed that this was necessary and that he, as State's representative, would be accountable for providing such decisions. This political, as apart from operational, responsibility seems to be in accord with the analysis of NSC 10/2, set forth under Section I above.

D. The Chief, OPC stated that he should have continuing and direct access to the appropriate departments without going through the CIA administrative hierarchy but that the Director should be kept informed in regard to all important projects and decisions. NSC 10/2 recognizes the special relationship between OPC and the Department of State and the National Military Establishment. But since the Chief of OPC is directed to report directly to the Director of Central Intelligence and responsibility for the conduct of OPC's activities was placed in the Director, the apparent intent of NSC 10/2 is that the Director have actual control of all projects and decisions, subject to NSC rulings on disputed items, rather than that he be merely kept informed on important projects and decisions.

E. In the letter, dated 11 October, to the Acting Director of Central Intelligence, Mr. Souers elaborates on his interpretation of the NSC action taken in 10/2. He states, in connection with the question whether the NSC should tell the Director of CIA how his organization would function, that whereas the intelligence organization of CIA was created by statute under the Director's control, OPC, which is not a truly intelligence operation, was created by NSC itself to operate independently of other components of CIA to the maximum degree consistent with efficiency.

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[redacted] 10/2 specifically says that the new Office shall be created within CIA. By any normal interpretation therefore, OPC's covert operations are functions of CIA and, as such, are the legal and actual responsibility of the Director. Furthermore, even the NSC has no authority to create a completely new and separate operating entity.

III. ANALYSIS OF THE PRESENT SITUATION.

A. NSC 10/2 is the official mandate to which the Director must look to ascertain his responsibilities. As set forth in Section I above, this mandate on its face places full administrative and operational control and responsibility on the Director. As it is presently worded, it is to him alone that the Council will look for results. It is for him to obtain the necessary policy guidance, and only such guidance is outside his control.

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B. Mr. Souers states that it was the intent of the Council to make State and JCS responsible for the conduct of OPC activities. The State Department representative and the Chief, OPC do not assert flatly that responsibility is in State and JCS but, by inference, shift the emphasis so that decisions are apparently to be made by the outside agencies, and the Director is merely to be kept informed. Such transfer of the basic responsibility and control is incompatible with the responsibilities of the Director under law and under NSC 10/2 as presently worded. He would be supporting a portion of the CIA budget over which he would have no supervision or control. He would be responsible for personnel and procurement, although he would only be informed by outside agencies of what his responsibilities were. He would be giving his personal certification as to the propriety of unvouchered expenditures, without any right to control or approve the expenditures in advance or to ascertain the actual propriety.

IV. RECOMMENDATION.

A. In view of the divergence in views apparent in Section III above, it is recommended that steps be taken to make a final clarification on responsibility and control for OPC covert operations in the following manner.

1. If NSC 10/2 was intended to carry the meaning its present wording appears to bear, there should be specific and detailed acknowledgment that the Director, in carrying out his mandate to conduct and be responsible for covert operations, has full administrative control of personnel and supplies, final authority over the expenditures of funds, and the right to initiate or veto projects. In time of war, of course, control would be transferred to the Joint Chiefs, as provided in 10/2.

2. If it was the intent of the Council, as stated by Mr. Souers, that responsibility be in the Department of State and the Joint Chiefs, it is felt that NSC 10/2 should be carefully amended to make the respective duties and responsibilities quite clear. This is particularly desirable in view of the possibility of a change of regime, bringing in a whole new Security Council, which might find itself faced with a hopelessly confused situation. In the event that control and responsibility are to be placed outside of CIA, it is recommended that the Director's responsibility be clearly limited to that of affording administrative support only. It should be made clear by the NSC, itself, that the Director has no administrative control, that he has no authority to veto projects, and that he has no control over unvouchered

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expenditures. If this decision is made, it is felt that at least two basic principles, believed to be generally accepted, would be involved: -- (1) that all covert activities should be subject to a single coordination and control, and (2) that there is no means by which the Director can divest himself of, or be separated from, his personal responsibility for the expenditure of unvouchered funds. Certainly the problems raised by such an arrangement would be many and difficult, whereas the organization apparently intended by 10/2 seems not only practicable but also efficient.

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LAWRENCE R. HOUSTON

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